

United States District Court  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

NATIVE ANGELS HOME CARE  
AGENCY, INC.  
Plaintiff,

V.

KATHLEEN SEBELIUS  
Defendant.

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## JUDGMENT IN A CIVIL CASE

**CASE NO. 7:09-CV-187-D**

### Decision by the Court:

**IT IS ORDERED AND ADJUDGED** that the court GRANTS Native Angels' summary-judgment motion [D.E. 14] as to its claim that 42 C.F.R. § 418.309(b)(1) is invalid and contrary to law, DENIES the Secretary's cross-motion for summary judgment as to 42 C.F.R. § 418.309(b)(1) [D.E. 19], and GRANTS the declaratory and injunctive relief. The court DENIES Native Angels' motion for preliminary injunction [D.E. 16] as moot. The court GRANTS summary judgment to the Secretary on plaintiff's Fifth amendment claim under the Takings Clause.

THE ABOVE JUDGMENT WAS ENTERED TODAY, **NOVEMBER 30, 2010** WITH A COPY TO:

Matthew William Wolfe (via CM/ECF Notice of Electronic filing)  
Matthew Lee Feswak (via CM/ECF Notice of Electronic filing)

November 30, 2010  
Date

DENNIS P. IAVARONE, Clerk  
Eastern District of North Carolina

/s/ Debby Sawyer  
(By) Deputy Clerk

Raleigh, North Carolina